

East Bellevue Community Council
Summary Minutes of Regular Meeting

October 5, 2004
6:30 p.m.

Lake Hills Community Clubhouse
Bellevue, Washington

PRESENT: Chair Bell, Vice Chair Keeffe, and Councilmembers Eder, Seal and Wiechmann

STAFF: Kate Berens, Legal Planner

1. **CALL TO ORDER**

The meeting was called to order at 6:30 p.m. with Chair Bell presiding.

2. **ROLL CALL**

Upon roll call by the Deputy City Clerk, all Councilmembers were present. Chair Bell led the flag salute.

3. **COMMUNICATIONS - WRITTEN AND ORAL** None.

4. **APPROVAL OF AGENDA**

Chair Bell polled the Council for additions to the published agenda.

Mr. Keeffe requested the addition of the recent Supreme Court decision under Unfinished Business.

Mr. Eder requested the additions of meeting noticing under New Business and his draft letter regarding UD-76 under Unfinished Business.

Mr. Keeffe moved approval of the agenda as amended. Mr. Seal seconded the motion which carried with a vote of 5-0.

5. **COURTESY PUBLIC HEARINGS:**

- a. Land Use Code Amendment – to remove references to the “Uniform Building Code” and replace with references to the “International Building Code” (IBC) to reflect recent adoption of new State Building Code based on the IBC.

Kate Berens, Department of Planning and Community Development, provided the staff overview. The proposed amendment to the Land Use Code is non-substantive in nature. It replaces references to the Uniform Building Code with references to the International Building Code. Effective July 1, 2004, the City along with other jurisdictions in the state moved to the International Building Code. References to the Uniform Building Code in the LUC are outdated and need to be revised to reflect this recent change. Ms. Berens explained the advantages of

adopting this set of technical codes cooperatively with other Eastside jurisdictions, giving builders who work across jurisdictions a consistent set of regulations. She noted the correction of an inadvertent omission to Section 8 brought to her attention by Mr. Eder.

In response to Chair Bell, Ms. Berens stated that any fence over eight feet in height requires a building permit. If the fence is less than eight feet, no permit is required. Continuing to respond, she stated that there is a reference in Section 20.21.25 to the Uniform Building Code which now becomes a reference to the International Building Code. The purpose of having the reference to the building code in that section is to say this section does not apply to structures exempt from the International Building Code. This section governs accessory structures which are typically exempt from building code requirements but still subject to Land Use Code requirements.

Responding to Mr. Keeffe, Ms. Berens confirmed that yard setbacks would still apply.

In response to Mr. Eder, she stated that in terms of building codes the City of Bellevue is virtually identical with neighboring jurisdictions. In terms of the Land Use Code, the things that Bellevue regulates are very typical to those things regulated by surrounding jurisdictions. The Masters Builders Association was not involved in this proposed change, as they are non-substantive in nature.

Chair Bell opened the courtesy public hearing.

Seeing no one wishing to speak, Mr. Keeffe moved to close the courtesy public hearing. Mr. Eder seconded the motion which carried with a vote of 5-0.

In response to Ms. Wiechmann, Ms. Berens clarified that the International Building Code was developed by an organization called the International Code Council. It is being used by several states, but, as far as use by other countries she could not say.

- b. Land Use Code Amendment – to include minimum density requirement for residential land use districts outside the Downtown. The amendment implements a new policy recommended for the Comprehensive Plan, and requires that new development meet at least 85% of the density provided for in the underlying zoning district.

Ms. Berens next presented the above proposed Land Use Code Amendment. She explained that it is proposed that Policy LU-4 adopting minimum density standards in each residential district outside the Downtown be added to the Land Use Element of the Comprehensive Plan. This Amendment would provide consistency with King County's Countywide Planning Policies which mandates that each local jurisdiction establish a minimum density for their residential zones.

Minimum densities are designed to ensure that residential development approximates the maximum density allowed in a particular land use district. Growth Management Act goals related to reducing sprawl and containing urban development within urban areas support adoption of minimum density requirements.

A variety of approaches to setting the minimum density that should be achieved in each residential zoning district were explored. The Planning Commission has directed that the ordinance be crafted to require that minimum densities of 85% of the maximum density be achieved in all residential land use districts outside the Downtown. Staff concurs due to the ease of administration and because the percentage threshold is set at a reasonable level ensuring development close to maximum but still allow some flexibility. For example, if a property owner proposed to build one dwelling unit on an existing legal lot of 20,000 square feet in R-3.5 zoning the City would not require that property owner to divide that lot into two lots to achieve its maximum potential. Other exceptions would be to renovate an existing dwelling unit, again the property owner would not be required to subdivide in order to make improvements.

It is important to note that the calculation of minimum density should take into consideration other demands on property in residential development. While maximum density calculations are generally based on gross site area, it is not appropriate to base minimum density on that same figure. Residential development of more than one or two lots requires that land area be dedicated to infrastructure such as roads and storm water detention facilities. These requirements are not considered in determining maximum densities. These requirements should, however, be considered in determining minimum density, since property owners must achieve that number of dwelling units. Staff recommends that the calculation of minimum density be based on an "allowed density" concept.

This proposed ordinance and minimum density calculation continue to be based on existing density assumptions of the Land Use Code, including the provision that the minimum lot size prevails over the dwelling units per acre allowance. A broader review of the density issues is anticipated in 2005.

In response to Mr. Keeffe, Ms. Berens stated that lot size is currently calculated on a two dimensional plane, the linear lot width multiplied by the linear lot depth.

Mr. Keeffe noted that property rights normally emanate from the center of the earth and go out as projected radii.

Responding to Mr. Eder, Ms. Berens stated that one of the side effects of this proposal could be a restriction on mega houses. There is a specific prohibition for lot combinations to develop one single family unit. Continuing to respond, Ms. Berens stated that the existing setback requirements (a minimum of five feet side setback) is throughout the City's current Code. She explained that sprinklers are sometimes required when there is not proper access but is not triggered by the City's current Code if the setback requirements are met. A building permit is required for fences above eight feet.

In response to Mr. Keeffe, Ms. Berens stated that setback was measure from structure projection closest to the property line. She stated that some minor encroachment may be allowed for gutters within the width of the façade but anything beyond would count against the setback. The gutter and eaves are allowed to encroach into the side setback up to eighteen inches.

Mr. Eder noted that in his reading of the Land Use Code, it allows intrusion into the setbacks with written agreement of the adjacent neighbors and filed with King County. Responding, Ms. Berens stated that was true for accessory detached structures only.

Responding to Chair Bell, Ms. Berens stated that the proposed amendment would apply to future in-fill development and potential redevelopment.

Chair Bell pointed out that the redevelopment seen in the past five to six years, once the sensitive areas and wetlands have been taken out, appear to be moving towards planned unit developments, fitting units door to door to fill in small land spaces. He provided a few examples to support his statement. He stated he believed that this proposal appears to be adding another requirement that is competing with the minimum lot size. Chair Bell noted, in regards to the applications coming in, that it seems like the density is going up automatically through the minimum lot sizing. Ms. Berens agreed that, in most cases when relying on minimum lot size, it tends to lead to higher density than if you took the dwelling unit per acre density.

Chair Bell questioned picking a number like 85% as percentage of allowed density which appears to be right out of the thin air. He stated that all that is doing is putting another reference line saying 85% of the nominal density allowed. In response, Ms. Berens stated that it is 85% of the gross site area with all subtractions previously discussed. It is 85% of the achievable density.

In response to Mr. Seal, Ms. Berens stated that this proposal is not related to maximum density. Maximum density is calculated on gross site area. When calculating maximum density, areas devoted to roadways and storm water facilities are included. If a developer can figure out a way to design a site to accommodate the maximum number of units and the required infrastructure, they are allowed to do so.

There was Council discussion with Ms. Berens.

Chair Bell stated his reservation with this proposed Land Use Code change. He explained that he thought it advisable to return with a comprehensive look at minimum lot size relative to this proposal for uniformity.

Ms. Berens explained that it has already been determined not to look at the disparity that already exists in the Code between minimum lot size and the dwelling units per acre designation. But, to potentially compare those issues when reviewing the housing ordinance next year.

Chair Bell stated his recommendation that, since the two issues are linked together, put them together. He stated there is no urgency. In response, Ms. Berens stated this particular ordinance would need to be adopted by December 1, 2004 to meet the mandates/timelines of GMA to achieve consistency with the Countywide Planning Policies. As a whole, staff is looking at housing policies next year with a thought to include lot size density issues at that time.

Chair Bell reiterated his recommendation to look at the minimum lot size disparity in conjunction with this proposal.

Chair Bell opened the courtesy public hearing and invited public comment.

Seeing no one wishing to speak, Mr. Keffe moved to close the courtesy public hearing. Mr. Eder seconded the motion which carried with a vote of 5-0.

6. **RESOLUTIONS:** None.
7. **REPORTS OF CITY COUNCIL, BOARDS, AND COMMISSIONS:** None.
8. **DEPARTMENT REPORTS** : None
9. **COMMITTEE REPORTS:** None.
10. **UNFINISHED BUSINESS** :
 - (a) Recent Supreme Court Decision

Mr. Keffe stated his understanding that the Supreme Court (of the members present) unanimously declined the Petition for Review submitted by the City of Bellevue regarding the consolidated cases on the traffic standards exemption . Mr. Keffe, reading from the Court of Appeals decision, paraphrased that the Court concluded that East Bellevue could not bring action before the Board or in Superior Court that does not fall within its explicit grant of authority and accordingly granted the City of Bellevue's writ of prohibition. They proceeded to address Bellevue's challenge to the merits of the Board's decision and because individual petitioners raised identical issues before the Board the Court affirmed the Boards conclusions that the Ordinance failed to conform to GMA concurrency.

Chair Bell summarized the above, stating the Court of Appeals upheld the Growth Management Board's decision to invalidate City of Bellevue traffic standards shopping center exemption ordinance. Subsequent to December 15th, several petitions were filed with the Supreme Court in regards to the Court of Appeals decision to uphold the Growth Management Boards decision. The Supreme Court has issued their order denying the City's Petition for Review.

Mr. Keffe noted the lack of attention to this issue in the newspapers. He suggested a press release to state what the Supreme Court has done with regard to the appealed Appellate Court decision. He stated that if the decision had gone in the City's favor it would have been publicized.

There was Council discussion and concurrence to draft a letter to the editor.

- (b) Comprehensive Plan Policy UD-76

Mr. Eder pointed to the draft memorandum in the Council's desk packet and asked Council direction. Council concurred to send out memorandum.

Chair Bell called a short recess at 8:00 p.m. and reconvened at 8:04 p.m.¹

11. **NEW BUSINESS:**

(a) Meeting Announcements in the King County Journal

Mr. Eder noted the absence of the published meeting notice again this month. He suggested signage or notice on a reader board to promote public attendance at their meetings. The Clerk noted that the meetings are noticed on the City's website.

Chair Bell noted public interest is dependent on the subject matter. Routine land use issues normally garner little public interest while, on the flip side, rezones and conditional uses seem to get more participation.

12. **CONTINUED COMMUNICATIONS**

Mr. Eder submitted a copy of a Transportation Commission memorandum written by Chris Dreaney and asked that it be distributed to Council.

Mr. Eder next asked that staff research an in-home daycare center at 15522 SE 4th Street to determine if they possess a City of Bellevue home occupation permit.

13. **EXECUTIVE SESSION:** None.

14. **APPROVAL OF MINUTES**

Mr. Keeffe moved to approve the September 7, 2004 Regular Meeting Summary Minutes. Mr. Eder seconded the motion. Mr. Eder noted minor grammatical corrections submitted to the Clerk. The motion carried with a vote of 4-0 to approve the September 7, 2004 Minutes as corrected.

15. **ADJOURNMENT**

Mr. Keeffe moved to adjourn the meeting, and Mr. Eder seconded the motion. The motion carried with a vote of 4-0.

At 8:20 p.m., Chair Bell declared the meeting adjourned.

Michelle Murphy, CMC
Deputy City Clerk

¹ Councilmember Seal left the Council Table at 8:00 pm.